

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

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In re:

PROMESA
Title III

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

No. 17 BK 3283-LTS

THE COMMONWEALTH OF PUERTO RICO
et al.,

(Jointly Administered)

Debtors.¹

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ORDER DENYING IN PART THE MOTION OF THE
LAWFUL CONSTITUTIONAL DEBT COALITION TO FILE UNDER SEAL CERTAIN PORTIONS
OF ITS OBJECTION TO THE MOTION OF NATIONAL PUBLIC FINANCE GUARANTEE
CORPORATION FOR ENTRY OF AN ORDER DIRECTING AN INDEPENDENT INVESTIGATION

Before the Court is the *Urgent Motion of the Lawful Constitutional Debt Coalition to File Under Seal Certain Portions of Its Objection to the Motion of National Public Finance Guarantee Corporation for Entry of an Order Directing an Independent Investigation* (Docket Entry No. 14567 in Case No. 17-3283,² the “Urgent Motion”), filed by the Lawful Constitutional Debt Coalition (the “LCDC”). Through the Urgent Motion, the LCDC seeks leave of Court to file under seal certain portions of its objection (the “Objection”) to the *Motion of National Public Finance Guarantee Corporation for Entry of an Order Directing an*

¹ The Debtors in these Title III Cases, along with each Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17-BK-3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17-BK-3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17-BK-3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17-BK-3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority (“PREPA”) (Bankruptcy Case No. 17-BK-4780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority (“PBA”) (Bankruptcy Case No. 19-BK-5523-LTS) (Last Four Digits of Federal Tax ID: 3801) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

² All docket entry references herein are to entries in Case No. 17-3283 unless otherwise specified.

Independent Investigation (Docket Entry No. 14450, the “National Motion”) on the basis that the Objection contains material (the “Confidential Material”) that may be considered confidential pursuant to this Court’s *Order Appointing Mediation Team* (Docket Entry No. 430) and *Order Regarding Mediation Confidentiality Restrictions* (Docket Entry No. 8686).

On October 14, 2020, the Court granted the Urgent Motion on a temporary basis and ordered briefing with respect to

(i) whether the Court may review and/or consider the Confidential Material, including the Confidential Exhibit, in connection with its determination of the National Motion and, if so, whether any current restrictions on the Court’s ability to review the Confidential Material are waivable or may otherwise be overridden; and (ii) whether, and, if so, to what extent, the Confidential Material satisfies the requirements of Rule 9018 of the Federal Rules of Bankruptcy Procedure and the orders of this Court governing sealed filings such that it should remain under seal for an unlimited duration or, alternatively, whether the Confidential Material, or any component thereof, must be filed on the public docket.

(*Order Regarding Motion of the Lawful Constitutional Debt Coalition to File Under Seal Certain Portions of Its Objection to the Motion of National Public Finance Guarantee Corporation for Entry of an Order Directing an Independent Investigation*, Docket Entry No. 14584, the “Temporary Sealing Order.”)³ The Court has considered carefully the Urgent Motion and the responses thereto filed by the Mediation Team, the Official Committee of Unsecured Creditors, and National Public Finance Guarantee Corporation (“National”) (collectively, the “Respondents”).⁴

In light of the position of the LCDC set forth in the Urgent Motion that the Confidential Exhibit and any references thereto in the Objection should ultimately be unsealed (see ¶ 9), and the lack of objection by the Respondents or any other party in interest to such material being made publicly available, the Court denies the Urgent Motion except insofar as it

³ Capitalized terms not defined herein shall have the meanings given to them in the Temporary Sealing Order.

⁴ See *Response of the Mediation Team to Urgent Motion of the Lawful Constitutional Debt Coalition to File Under Seal Certain Portions of Its Objection to the Motion of National Public Finance Guarantee Corporation for Entry of an Order Directing an Independent Investigation* (Docket Entry No. 14735); *Response and Limited Objection of Official Committee of Unsecured Creditors to the Urgent Motion of the Lawful Constitutional Debt Coalition to File Under Seal Certain Portions of Its Objection to the Motion of National Public Finance Guarantee Corporation for Entry of an Order Directing an Independent Investigation* (Docket Entry No. 14748); *Response and Limited Objection of National Public Finance Guarantee Corporation to the Urgent Motion of the Lawful Constitutional Debt Coalition to File Under Seal Certain Portions of Its Objection to the Motion of National Public Finance Guarantee Corporation for Entry of an Order Directing an Independent Investigation* (Docket Entry No. 14755).

requests that the references to Confidential Material in paragraphs 37 and 43 of the Objection be maintained under seal. The Court will enter a separate order addressing that request following completion of briefing on the Urgent Motion. The LCDC and National are directed to refile their respective relevant pleadings in a form consistent with the foregoing ruling by **October 25, 2020, at 3:00 p.m. (Atlantic Standard Time)**.

SO ORDERED.

Dated: October 24, 2020

/s/ Laura Taylor Swain
LAURA TAYLOR SWAIN
United States District Judge